

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
v.)
)
(1) IVAN CRUZ-RIVERA and)
(2) CARLOS JIMENEZ)
)
)
Defendant.)
)

Docket No. 16-CR-40025-TSH

JOINT MEMORANDUM PURSUANT TO LOCAL RULE 116.5(b)

The United States of America and the defendants Ivan Cruz-Rivera (“Cruz-Rivera”) and Carlos Jimenez (“Jimenez”) (together, the “defendants”) through their respective counsel, hereby submit this joint memorandum addressing Local Rule 116.5(b).

I. Local Rule 116.5(b)(1)

On July 8, 2016, the government produced automatic discovery as required by Fed. R. Crim. P. 16 and Rules 116.1(c) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts. On August 4, 2016, the government provided additional supplemental discovery. The government is unaware of any additional outstanding discovery, but should the government become aware of any such discovery, it will immediately disclose such to defense counsel.

II. Local Rule 116.5(b)(2)

The government will provide discovery in response to any future request(s) according to the local rules and pursuant to the Federal Criminal Rules of Criminal Procedure, including any supplemental discovery if any additional materials are obtained. As noted above, the government is unaware of any additional outstanding discovery.

III. Local Rule 116.5(b)(3)

The defendants need additional time to review the government's automatic and supplemental discovery before determining whether it will be necessary to file a request for additional materials.

IV. Local Rule 116.5(b)(4)

At this time, the parties are not seeking any protective orders to prevent the disclosure or dissemination of sensitive information concerning victims, witnesses, defendants, or law enforcement sources or techniques. The parties reserve the right to seek such orders in the future, should the need arise.

V. Local Rule 116.5(b)(5)

The defendants need additional time to determine whether they will be filing any motions under Fed. R. Crim. P. 12(c).

VI. Local Rule 116.5(b)(6)

The parties propose that expert disclosures for the government, if any, be due 45 days before trial and that the defendants' expert disclosures, if any, be due 21 days before trial.

VII. Local Rule 116.5(b)(7)

The defendants do not presently anticipate raising a defense of alibi, public authority, or insanity.

VIII. Local Rule 116.5(b)(8)

The government and the defendants agree that the period from the defendants' initial appearance and arraignment upon the indictment on June 10, 2016 through September 7, 2016, the date set for the interim status conference, was properly excluded by this Court's order on excludable delay. [D.33; D.40]. The government and the defendants further agree that the time

period between September 7, 2016, and the next court date should be excluded because the parties have been and are using the period of the continuance to complete production and review of discovery, and also determine how to proceed in this case. Therefore, the parties request that this Court find that the ends of justice served by excluding the period of this continuance outweigh the best interest of the public and the defendant in a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A).

IX. Local Rules 116.5(b)(9) and 116.5(a)(10)

Should the case proceed to trial, the parties estimate that the trial will take approximately 5 to 7 days. In order to continue review of the discovery materials and engage in possible plea discussions, the parties request that a further interim status conference date be scheduled in approximately 45 days. The parties further request that the period of time between this status conference and the next court date, be excluded from all Speedy Trial calculations.

Respectfully submitted,

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Date: September 6, 2016

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Michelle L. Dineen Jerrett
Michelle L. Dineen Jerrett
Assistant U.S. Attorney

Date: September 6, 2016